

### REMARKS

After entry of this amendment, claims 32, 43, 45 and 59-66 are pending.

Applicants thank the examiner for the courtesy extended in communications relating to the claim language. This amendment addresses is consistent with these communications.

No new matter is incorporated by these amendments.

#### REJECTIONS UNDER 35 USC §112, SECOND PARAGRAPH

*Claims 30, 43, 45, 59-61 and 65-66 are rejected under 35 USC 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards at the invention.*

Applicants respectfully traverse this rejection.

The claims have been amended to correct issues relating to antecedent basis in respect of the recitation of “the AAV”, “AAV capsid” vs. “AAV9 capsid”, and “non-naturally occurring adeno-associated virus” in claims 32, 59-62, and 65-66, and to clarify the subject matter of the invention. These amendments do not affect the scope of the invention.

Claim 63 has been amended to remove reference to “said rAAV” and to depend from claim 65. Claim 64 is amended to recite “a scavenger receptor”, although the inclusion of the plural in a Markush group did require that the claim be read to require multiple receptors.

Applicants request that this application be permitted to pass to issue.

#### Claim Objection

*The examiner has objected to claim 66 as being of improper dependent form. Applicants respectfully traverse this objection.*

Claim 65 provides for an AAV having a capsid which is at least 95% identical to the recited AAV9 vp3 capsid protein. This language is supported, e.g., on page 10, lines 24-27 and

throughout the specification. As can be readily seen by reference to the alignments provided in Fig 2 of this application and the location of the hypervariable regions described in the specification (page 21, lines 22-25), vp3 is the region of the AAV capsid which has the most diversity amongst AAV capsids. Conversely, the capsid regions unique to the vp1 and vp2 capsid proteins are the most conserved. Thus, an AAV may be at least 95% identical to the AAV9 vp3 capsid region and still be at least 90% over the full-length AAV capsid, as is recited in claim 66. Thus, claim 66 further defines the structure of the vp1 and vp2 unique regions of the AAV capsid containing the AAV9 vp3 sequence. Claim 66 has been amended to clarify the subject matter of the invention.

Reconsideration and withdrawal of this objection is requested.

Applicant requests that this application be permitted to pass to issue.

The Director is hereby authorized to charge any deficiency in any fees due with the filing of this paper, or credit any overpayment in any fees, to our Deposit Account, Number 08-3040.

Respectfully submitted,

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